

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ROBERT CASTILLO,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:21-CV-00545-REP
)	
PUBLIX SUPER MARKETS, INC.,)	
)	
Defendant.)	

**MEMORANDUM IN SUPPORT OF
UNOPPOSED MOTION TO SUBSTITUTE**

Plaintiff Robert Castillo, by counsel, with the agreement of Defendant, by counsel, and pursuant to Federal Rule of Civil Procedure 21, respectfully request the Court enter an Order substituting Publix North Carolina, L.P. as a named Defendant in this action in place of Publix Super Markets, Inc. In support of this motion, Plaintiff states as follows:

1. Federal Rule of Civil Procedure 21 provides that on motion, “the court may at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21. Rule 21 may be used to substitute parties in situations not covered by Rule 25. See *Hill v. Delaware North Companies, Inc.*, No. 11-CV-753 (W.D.N.Y. Nov. 21, 2011) (Stipulated Order (Doc Nos. 25, 28)) (substituting subsidiary of named defendant); see also *McGuffie v. Mead Corp.*, 998 F. Supp. 2d 1232, 1247 (N.D. Ala. 2014); *Mathis v. Bess*, 761 F. Supp. 1023, 1026 (S.D.N.Y. 1991); *Nat’l Maritime Union of Am. v. Curran*, 87 F. Supp. 423, 426 (S.D.N.Y. 1949); 7 Wright, Miller & Kane, *Federal Practice and Procedure: Civil* 2d § 1686, p. 463 (2d ed. 1986) (“[T]here is no reason why a substitution of parties cannot be made under Rule 21, in the discretion of the court and in the interest of justice, in situations not covered by Rule 25.”).

2. On June 29, 2021, Plaintiff Robert Castillo filed his Complaint naming “Publix Super Markets, Inc.” as the defendant in the action.

3. On July 23, 2021, Publix Super Markets, Inc. was served via its registered agent in Virginia, Corporate Creations Network.

4. On August 13, 2021, Publix North Carolina, L.P. filed its Answer to Plaintiff’s Complaint, stating that Publix Super Markets, Inc. was not the proper party defendant; Publix North Carolina, L.P. is the entity affiliated with the property where the incident sued upon took place, and therefore, the proper party defendant.

5. No party will be prejudiced by the Court’s substitution of Publix North Carolina, L.P. in place of the defendant originally identified as Publix Super Markets, Inc.

6. The parties agree that it is not necessary for Plaintiff to re-plead his claims against Publix North Carolina, L.P. or to serve separate process on Publix North Carolina, L.P. and that all claims asserted against Publix Super Markets, Inc. in the Complaint are deemed to have been asserted against Publix North Carolina, L.P. and relate back to the original filing of the Complaint in this action.

7. It is further sought that the caption be amended, and “Publix Super Markets, Inc.” be replaced with “Publix North Carolina, L.P.”

8. Accordingly, the caption should read:

ROBERT CASTILLO,)	
)	
Plaintiff,)	
)	
v.)	
)	
PUBLIX NORTH CAROLINA, L.P.)	
)	
Defendant.)	

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WHEREFORE, for all the above reasons, Plaintiff respectfully requests that this motion be granted and, pursuant to Federal Rule of Civil Procedure 21, add Publix North Carolina, L.P. and simultaneously drop Publix Super Markets, Inc. as a party defendant.

Dated: October 5, 2021

Respectfully Submitted,

ROBERT CASTILLO

By: /s/ Christian F. Tucker
Counsel

Martin A. Conn, Esq. (VSB No. 39133)
Christian F. Tucker, Esq. (VSB No. 92571)
Moran Reeves & Conn PC
1211 East Cary Street
Richmond, Virginia 23219
Telephone: (804) 421-6250
Facsimile: (804) 421-6251
mconn@moranreevesconn.com
ctucker@moranreevesconn.com
Counsel for Robert Castillo

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jon A. Nichols (VSB No. 48613)
Laura M. Berry (VSB No. 95697)
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, VA 23255
Telephone: 804-747-5200
Facsimile: 804-747-6085
jnichols@hccw.com
lberry@hccw.com
Counsel for Publix North Carolina, L.P.

/s/ Christian F. Tucker
Martin A. Conn, Esq. (VSB No. 39133)
Christian F. Tucker, Esq. (VSB No. 92571)
Moran Reeves & Conn PC
1211 East Cary Street
Richmond, Virginia 23219
Telephone: (804) 421-6250
Facsimile: (804) 421-6251
mconn@moranreevesconn.com
ctucker@moranreevesconn.com
Counsel for Robert Castillo